

## **REMARKS**

The Office Action mailed January 25, 2007 considered claims 1, 2, 5-13, 15-30, 38-43, and 45-52. Claims 1, 2, 6, 10, 11, 12, 21, 25, 27, 28, 38-41, 43, 45, 49, and 50 were rejected under 35 U.S.C. § 102(b) as being anticipated by Suzuki, U.S. Patent No. 5,956,488 (filed Mar. 15, 1996) (hereinafter Suzuki). Claims 5, 7, 15-17, 20, 29, 30, 42, and 48 were rejected under 35 U.S.C. § 103(a) as being unpatentable by Suzuki, in view of Kuhn, U.S. Patent Pub. No. 2002/0157112 (filed Mar. 13, 2001) (hereinafter Kuhn).<sup>1</sup>

By this response, claims 1, 10, 11, 25, and 38 are amended such that claims 1-2, 5-13, 15-30, 38-43, and 45-52 remain pending. Claims 1, 10, 11, 25, and 38 are independent claims which remain at issue. Support for the amendments may be found within Specification ¶ 14.<sup>2</sup>

As reflected in the claims, the present invention is directed generally toward methods, systems, and computer program products for conserving network bandwidth during network downloading of streaming media. Claim 1 recites, for instance, in combination with all the elements of the claim, a method for providing streaming media from a wide area network to a plurality of receivers. The method includes at least one aggregation module receiving a request for real-time streaming media accessible via a wide area network from each of a plurality of receivers. Each request includes an identifier representative of the receiver making the request. The method further includes using the at least one aggregation module, aggregating a plurality of requests into a single request and sending the single request for a single copy of the real-time streaming media to the wide area network. The single copy of the real-time streaming media is buffered at the at least one aggregation module. Using the buffered single copy of the real-time streaming media, the streaming media is delivered to the plurality of receivers. The manner by which the streaming media is delivered is changed to a multicast format.

Claim 10 claims a computer program product including computer readable medium with instructions for performing the acts of claim 1. Claim 11 is similar to claim 1 but varies in scope

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

<sup>2</sup> However, it should be noted that the present invention and claims as recited take support from the entire Specification. As such, no particular part of the Specification should be considered separately from the entirety of the Specification.

in at least elements related to aggregation modules, the type of media streamed, and the method for delivering data to receivers.

Claim 25 is a computer program product claim with similar scope to the other claims recited herein. Claim 25, however, recites elements in functional means language as outlined in the specification.

Claim 38 is directed to a system for implementing one embodiment of the invention, and includes at least an access module communicating with the plurality of receivers and the source module through the network. Claim 38 recites at least that the access module is configured to receive the request for media, aggregate requests by removing redundant requests to create a single request, send the single request for a single copy of the media to the network, and then subsequently change the manner by which the streaming media is delivered to a multicast format. Changing the manner by which the streaming media is delivered is performed based upon changes to the first connection rate as media is delivered to two or more of the plurality of receivers.

Each of the independent claims, 1, 10, 11, 25, and 38, were rejected under 35 U.S.C. § 102(b) as being anticipated by Suzuki. The applicant submits, however, that Suzuki fails to teach and every element of the invention as recited in the independent claims. For instance, the independent claims recite "aggregating a plurality of requests into a single request and sending the single request for a single copy . . . ." Although Suzuki teaches "combining a plurality of requests . . . into a single unified request,"<sup>3</sup> Suzuki fails to teach that the single request, as in the present claims, is for a *single copy* of the requested data. It is completely possible for a single request to specify that multiple copies of requested data are to be provided. In the present invention, a single copy is requested to be sent but Suzuki fails to teach that particular limitation.<sup>4</sup> It should be noted that the Examiner has asserted that Suzuki teaches combining "requests for the same data into a single unified request" but the Examiner has not asserted that the request of Suzuki is for a single copy of the data. If such a limitation is considered to be inherent, then the Applicant respectfully requests the Examiner provide proper and adequate

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<sup>3</sup> Suzuki col. 2 l. 50-54, col. 18 l. 33-36.

<sup>4</sup> Suzuki does teach a "single access" to a data store, but that is not inherently the same as requesting a single copy be sent.

support for such inherency. Absent such assertion and support, the Applicant respectfully submits that a *prima facie* case of anticipation has not been made.

Suzuki also fails to teach "changing the delivery of the streaming media from a first format to a *multicast* format." First, the Applicant takes note that in the previous office communication – prior to the independent claims being amended to recite changing to a multicast format – the Examiner had conceded that "Suzuki does not disclose that the aggregation module is configured to dynamically vary delivery of the requested media as either independent streams or as a multicast depending on traffic load on the network."<sup>5</sup> In the present communication, however, interpreting the teaching of Suzuki, the Examiner asserted that:

"Since the data reaches multiple input/output units after being sent once from the source, the *examiner interprets this as a multicast format* and further interprets the determination made at the data management unit to be a determination to switch from a first format (point-to-point) to a multicast format."<sup>6</sup>

The Applicant respectfully submits that it is error for the Examiner to make such inferences or interpretations. Traditional broadcast television and traditional broadcast radio provides an example of data being sent once from a source but reaching multiple receiving units. Such traditional indiscriminate broadcasting (which reaches multiple receivers) does not inherently require a multicast format as is taught and claimed by the present invention. Further, it should be noted that Suzuki fails completely, in its entirety, to mention "multicast" at all.<sup>7</sup> The Applicant submits that multicast format is not inherent to "data reach[ing] multiple input/output units after being sent once from [a] source" and therefore it is error for the Examiner to make such an interpretation or assertion. The Applicant respectfully requests the Examiner to provide proper and adequate support for any assertion that multicast format is inherent to the teachings of Suzuki (or in data being received by multiple receivers after having been sent once from a source).

Each of the independent claims recites the elements discussed above. Because, as discussed above, Suzuki fails to teach each and every element of the invention as recited in the independent claims, the Applicant submits that a rejection under 35 U.S.C. § 102(b) of the

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<sup>5</sup> Office Communication p. 9, paper no. 20060823 (mailed Sep. 7, 2006).

<sup>6</sup> Office Communication p. 4 (Jan. 25, 2007) (emphasis added).

<sup>7</sup> See, generally, Suzuki.

independent claims as being anticipated by Suzuki is improper and should be withdrawn. The Applicants submit that the independent claims, as recited, are in condition for allowance and, correspondingly, respectfully request the Examiner to issue their allowance.

In view of the foregoing, the Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as the Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, the Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 11<sup>th</sup> day of April, 2007.

Respectfully submitted,



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